

Docket No. AMSP458US

E0796

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re **PATENT** application of:

Applicant: Ramkumar Subramanian
Application No.: 09/634,302
For: SYSTEM AND METHOD FOR DEFECT IDENTIFICATION AND
LOCATION USING OPTICAL INDICIA DEVICE
Filing Date: August 8, 2000
Examiner: Richard A. Rosenberger
Art Unit: 2877

APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)

Mail Stop Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This is an application for patent term adjustment under 37 C.F.R. § 1.705(b), requesting that the patent term adjustment of 191 days calculated by the United States Patent and Trademark Office on September 30, 2005 for the above-identified patent application be adjusted to the correct patent term adjustment value of 1,089 days.

Please charge the requisite fee of \$200.00 for the above application for patent term adjustment in accordance with 37 C.F.R. § 1.18(e) to Deposit Account No. 01-0365, E0796.

The above patent application was filed on August 8, 2000. A first Office Action was mailed on November 1, 2002. The time period for mailing this first non-final Office Action exceeded the time period set forth in 37 C.F.R. § 1.703(a)(1) by a time period of 389 days, which was correctly calculated by the PTO. A response to the first Office Action was filed on November 14, 2002, within the shortened 3-month statutory period. A Final Office Action was then mailed to applicant on February 11, 2005. The time

period for mailing this Final Office Action exceeded the time period set forth in 37 C.F.R. § 1.703(a)(2), and the calculation of delay associated with this item was incorrect, as will be highlighted in greater detail below.

Apparently, the delay in sending the Final Office Action to the applicant was due to the original Final Office Action being inadvertently sent to the wrong correspondence address on November 18, 2003. This document is submitted herewith as Appendix A. The individual who received the Final Office Action in error responded back to the PTO providing notification of such error on November 26, 2003. This document is submitted herewith as Appendix B. According to the PTA History available on public PAIR (submitted herewith as Appendix C) a letter restarting the time period was sent on February 10, 2005, however, applicant never received such letter, nor is such documentation available on the Image File Wrapper section on public PAIR. Further, according to the relevant PTA history, the time period between November 17, 2003 and February 11, 2005, when the Final Office Action was sent to applicant, was improperly attributed to applicant as applicant-responsible delay. This attribution to applicant of 442 days of delay was improper.

Consequently, the appropriate patent term adjustment calculation associated with the Final Office Action corresponds to 37 C.F.R. § 1.703(a)(2), wherein the number of days of delay should be calculated from four (4) months after the filing of the reply to the non-final Office Action (such reply filed on November 14, 2002), until the date in which the Final Office Action was mailed (February 11, 2005). This time delay amounts to 700 days. Consequently, the total amount of delay attributed to the PTO is believed to be 389 days + 700 days = 1,089 days. Further, no delay should be attributed to the applicant.

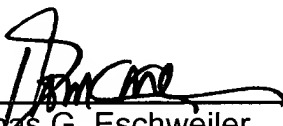
The present application is not subject to a terminal disclaimer.

No circumstances exist within the prosecution of this application that may be considered as resulting in a failure to engage in reasonable efforts to conclude examination of the present application.

Should the personnel at issue in evaluating this application for patent term adjustment feel that a telephone interview would be helpful to facilitate favorable prosecution or consideration of the above-identified application, the Examiner is invited to contact the undersigned at the telephone number provided below.

Should any fees be due as a result of the filing of this request, the Commissioner is hereby authorized to charge the Deposit Account Number 01-0365, E0796.

Respectfully submitted,
ESCHWEILER & ASSOCIATES, LLC

By 
Thomas G. Eschweiler
Reg. No. 36,981

National City Bank Building
629 Euclid Avenue, Suite 1210
Cleveland, Ohio 44114
(216) 502-0600

CERTIFICATE OF MAILING (37 CFR 1.8a)

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Issue Fee, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

Date: October 17, 2005


Christine Gillroy



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Effective on 12/08/2004.
Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

FEE TRANSMITTAL

For FY 2005

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 200.00

Complete if Known

Application Number	09/634,302
Filing Date	August 8, 2000
First Named Inventor	Ramkumar Subramanian et al.
Examiner Name	Richard A. Rosenberger
Art Unit	2877
Attorney Docket No.	AMDP458US

METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit Card ☐ Money Order ☐ None ☒ Other (please identify): Deposit Account
☒ Deposit Account Deposit Account Number: 01-0365 Deposit Account Name: Advanced Micro Devices, Inc.

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee
☒ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 ☒ Credit any overpayments

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

FEE CALCULATION

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

2. EXCESS CLAIM FEES

Fee Description	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 or, for Reissues, each claim over 20 and more than in the original patent	50	25
Each independent claim over 3 or, for Reissues, each independent claim more than in the original patent	200	100
Multiple dependent claims	360	180

Total Claims Extra Claims Fee (\$) Fee Paid (\$) Multiple Dependent Claims
- 20 or HP = _____ x 50.00 = _____ Fee (\$) Fee Paid (\$)
HP = highest number of total claims paid for, if greater than 20
Indep. Claims Extra Claims Fee (\$) Fee Paid (\$)
- 3 or HP = _____ x 200.00 = _____
HP = highest number of independent claims paid for, if greater than 3

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper, the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets Extra Sheets Number of each additional 50 or fraction thereof Fee (\$) Fee Paid (\$)
- 100 = _____ / 50 = _____ (round up to a whole number) x _____ = _____

4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

Other: Requisite Fee for Application for Patent Term Adjustment

Fees Paid (\$)

200.00

SUBMITTED BY

Signature		Registration No. (Attorney/Agent)	36,981	Telephone	(216) 502-0600
Name (Print/Type)	Thomas G. Eschweiler	Date	10/17/05		

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/634,302	08/08/2000	Ramkumar Subramanian	E0796	5052
34744	7590	11/18/2003		
THE LAW OFFICE OF RICHARD S ERBE P.O. BOX 418 5380 SENECA PLACE SIMI VALLEY, CA 93062				
			EXAMINER ROSENBERGER, RICHARD A	
			ART UNIT 2877	PAPER NUMBER

DATE MAILED: 11/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/634,302

Applicant(s)

SUBRAMANIAN ET AL.

Examiner

Richard A Rosenberger

Art Unit

2877

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 November 2002.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-11, 13, 17-22, 24 and 25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 8-11, 17-22, 24 is/are allowed.
- 6) ☐ Claim(s) 13 and 25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

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1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 13 and 25 are is rejected under 35 U.S.C. 103(a) as being unpatentable over Hoshiyama (US 5,644,399).

The systems of figure 1a, 3 and 6 of Hoshiyama shows an optical measuring device (image sensor 3) to view an object along an optical path and an optical indicia device (scale plate 4) located in the optical path. The scale plate 4 is transparent and has non-transparent indicia thereon. The structure of the scale plates inherently provide location information with respect to any observable feature of on the object, including defects.

Those in the art could chose any lens system which is appropriate for the application at hand for imaging the article and the scale plate onto the image detector, including a microscope. Providing means to adjust and/or remove the scale plate would have been obvious; the embodiment of figure 4 of the reference shows that it is known that it is useful to be able to view the article without viewing the scale, which is the purpose of the shutter 8B. In systems in which the scale lies physically between the article and the sensor, the obvious and straightforward

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manner of achieving this desired result is to simply remove the scale plate. This would simplify the construction and reduce the cost by eliminating the half mirror and the shutter.

3. The argument in the remarks filed 19 November 2002 concerning the rejection of claims 13 and 25 above have been considered, but have not been found to be persuasive. The Hoshiyama reference clearly teaches being able to obtain images of the object and the superimpose scale and of the object only, and provides means to accomplish this. This is a teaching of effectively removing the optical indicia device from the optical path, and a suggestion of actually removing it. There is clearly every reasonable expectation of success in effectively removing the optical indicia device from the optical path by actually removing it from the optical path; none in the art would imagine that physically removing the optical indicia device would not effectively remove it as taught by Hoshiyama.

4. Claims 8-11, 17 through 22, and 24 appear to be allowable.

The art does not appear to teach or suggest having "an optical indicia device located in the optical path" and movable "between a first position in the first plane, and a second position in a second plane, and wherein the second plane is parallel with the first plane" as in claim 8 and claims 9-11 as dependent therefrom..

The art does not appear to teach or suggest the use of such a optical indicia device in a method involving correlation of defects between different workpieces as in claims 17 and 22, and claims 18-21 as dependent from claim 17.

The art does not appear to teach or suggest the use of such an optical indicia device in a method involving comparison between tow portions of a workpiece as in claim 24.

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

6. Papers related to this application may be submitted to Group 2800 by facsimile transmission. The faxing of such papers must conform to the notice published in the Official Gazette, 1096 OG 30 (15 November 1989). The fax number is (703) 872-9306

Any inquiry concerning this communication or earlier communications from the examiner should be directed to R. A. Rosenberger whose telephone number is (703) 308-4804.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0956.

R. A. Rosenberger
14 November 2003



Richard A. Rosenberger
Primary Examiner



AF/2877

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of)	
Ramkumar Subramanian)	Examiner: R.A. Rosenberger
Serial No. 09/634,302)	Group Art Unit: 2877
Filed: 08/08/2000)	
For: SYSTEM AND METHOD FOR)	
DEFECT IDENTIFICATION AND)	
LOCATION USING AN OPTICAL)	
INDICIA DEVICE)	

COMMUNICATION

Assistant Commissioner of Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

RECEIVED
DEC - 8 2003
TECHNOLOGY CENTER 2800


This Communication confirms a telephone discussion between Examiner Richard Rosenberger and the undersigned on November 25, 2003. On November 24, 2003, I received an Office Action mailed November 18, 2003, in the above application.

As communicated to Examiner Rosenberger, I believe I received this correspondence in error, as I am not the Attorney of Record, nor am I acquainted with the inventor or the application.

Respectfully submitted,

THE LAW OFFICE OF RICHARD S. ERBE

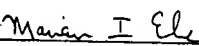
Date: 11/25/03

By: 
Richard S. Erbe/Reg. No. 34814

The Law Office of Richard S. Erbe
Richard S. Erbe
P.O. Box 418
Simi Valley, CA 93062-0418
(805) 522-7636

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Arlington, Virginia 22313, on November 26, 2003.

Signature: 
Name: Marion I. Erbe
Date: November 26, 2003

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PATENT APPLICATION INFORMATION RETRIEVAL

Patent Term Adjustment (PTA) for publication number: 09/634,302			
			Days
Filing or 371(c) Date:	08-08-2000	USPTO Delay (PTO):	633
Issue Date of Patent:	-	Three Years:	-
Pre-Issue Petitions (days):	+0	Applicant Delay (APPL):	442
Post-Issue Petitions (days):	+0	Total PTA:	191
USPTO Adjustment (days):	+0	Explanation of Calculations	

Search Options

Assignments
Display References
Image File Wrapper
File History
Publication Review

Patent Term Adjustment History			
Date	Contents Description	PTO (days)	APPL (days)
09-30-2005	Mail Notice of Allowance		
09-29-2005	Claims PTO		
09-21-2005	Issue Revision Completed		
09-19-2005	Notice of Allowance Data Verification Completed		
07-15-2005	Date Forwarded to Examiner		
07-12-2005	Appeal Brief Filed		
05-05-2005	Notice of Appeal Filed		442
04-27-2005	Mail Advisory Action (PTOL - 303)		↑
04-27-2005	Advisory Action (PTOL-303)		↑
04-15-2005	Date Forwarded to Examiner		↑
02-22-2005	Amendment after Final Rejection		↑
02-11-2005	Mail Notice of Restarted Response Period		↑
02-10-2005	Letter Restarting Period for Response (i.e. Letter re: References)		↑
12-01-2003	Miscellaneous Incoming Letter		↑
11-18-2003	Mail Final Rejection (PTOL - 326)	244	↑
11-17-2003	Final Rejection	↑	
09-10-2003	Date Forwarded to Examiner	↑	
11-19-2002	Response after Non-Final Action	↑	
01-29-2003	File Marked Found		
01-29-2003	File Marked Lost		
01-29-2003	Correspondence Address Change		

11-01-2002	Mail Non-Final Rejection	389	
10-31-2002	Non-Final Rejection	↑	
03-17-2001	Correspondence Address Change	↑	
01-25-2001	Correspondence Address Change	↑	
11-17-2000	Information Disclosure Statement (IDS) Filed	↑	
10-12-2000	Case Docketed to Examiner in GAU	↑	
10-02-2000	Application Dispatched from OIPE	↑	
09-22-2000	Correspondence Address Change	↑	
09-05-2000	IFW Scan & PACR Auto Security Review	↑	
08-08-2000	Initial Exam Team nn	↑	

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